

**EXHIBIT 9 a**

**To**

**25 June 2007**

**Affidavit of Bias**

**Pursuant to 28 USC § 144**

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conference

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----xIN RE: SKI TRAIN FIRE  
IN KAPRUN, AUSTRIACASE NO.  
01 MDL 1428 (SAS)  
06 CV. 1657 (SAS)6 New York, N.Y.  
7 April 25, 2007  
8 11:45 a.m.

Before:

HON. SHIRA A. SCHEINDLIN,

DOC # 280

District Judge

## 11 APPEARANCES

12 NAGEL, RICE & MAZIE  
13 Attorneys for American Plaintiffs  
14 BY: JAY J. RICE15 SPEISER KRAUSE  
16 Attorneys for American Plaintiffs  
17 BY: CHRISTINA FRY18 EDWARD D. FAGAN  
19 Liaison Counsel to Class Plaintiffs20 FLORIDA LAW GROUP, L.L.C.  
21 Attorneys for Plaintiffs  
22 BY: JAMES F. LOWY23 HANTMAN & ASSOCIATES  
24 Attorneys for Plaintiffs  
25 BY: ROBERT J. HANTMANREED, SMITH, LLP  
Attorneys for Defendant  
Bosch Rexroth Corporation  
BY: PAUL P. ROONEY

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1 MR. FAGAN: They did, your Honor.

2 THE COURT: All right.

3 MR. FAGAN: Those two people testified at the criminal  
4 trial in Austria.

5 THE COURT: Right.

6 MR. FAGAN: However, at the time they testified at the  
7 criminal trial in Austria they did not provide the information  
8 that they were going to come in and provide in these  
9 depositions. They -- we were afraid of that exact reason of  
10 the potential intimidation. On the video I specifically asked  
11 Mr -- the first.

12 THE COURT: Schwartz.

13 MR. FAGAN: -- Mr. Schwartz, whether he was afraid and  
14 he wanted me to ask the Court to keep his identity  
15 confidential.

16 When he said yes to that, in the December 28th video,  
17 that's why I came into this court and asked the Court for  
18 protection. That's in a video; his specific statement about  
19 that.

20 In addition, your Honor, what then happened from  
21 December 28th, the next thing that happens is at the end of  
22 February before there has ever been a deposition notice  
23 scheduled, that witness and his lawyer are called by two  
24 different people to attempt to prevent them from testifying.  
25 That's a fact. It can be produced for the Court.

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1                   And, in addition -- and that's one of the very reasons  
2 why we wanted to keep it confidential, because we wanted the  
3 witnesses to be able to come in and testify truthfully without  
4 coercion or pressure. That's in February. That was -- the  
5 phone calls were made -- this isn't me. Mr. Lowy heard that  
6 also from the whistle -- the first -- Mr. Schwartz' lawyer and  
7 from Mr. Schwartz. Mr. Lowy was there when we were speaking to  
8 Mr. Schwartz on April the 11th. And, he also had an  
9 opportunity to see what Mr. Schwartz was going through not from  
10 the February 28th phone call or the end of February phone  
11 calls, but the phone calls that were made on April the 7th,  
12 2007, right after the Court directed me to disclose the  
13 identity and the statement including the declaration of what he  
14 would testify to.

15                  He got two phone calls that morning. He got a phone  
16 call from a -- from Dr. Stieldorf -- the lawyer got another  
17 cone fall Dr. Stieldorf, the witness got a phone call from one  
18 of Dr. Stieldorf's clients.

19                  THE COURT: Dr. Stieldorf doesn't work with the  
20 defense, does he?

21                  MR. FAGAN: Yes, he does, your Honor.

22                  THE COURT: Oh, he does. In what way does he work for  
23 the defendant? Which defendant employs him to do what?

24                  MR. FAGAN: Your Honor, he is part of a group in  
25 Austria. This is confirmed by the affidavit or declarations of

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1 Dr. Geier.

2 THE COURT: Part of a group to do what?

3 MR. FAGAN: Part of a group to destroy the cases in  
4 the United States.5 THE COURT: I'm sorry, Mr. Fagan. You sound like you  
6 are hallucinating.

7 MR. FAGAN: No, ma'am.

8 THE COURT: Excuse me. I will now speak, you will  
9 not.10 Apparently he represents some plaintiffs. Apparently  
11 he would like to settle the cases. Apparently he has got some  
12 offers in the range of \$20 million. Apparently that offer is  
13 not satisfactory to you and doesn't pay you enough but it has  
14 nothing to do with the defendants.

15 MR. FAGAN: Your Honor --

16 THE COURT: He may be competing with you. He may have  
17 plaintiffs of his own. He may wish to settle those cases for  
18 \$20 million. He may wish to give you a hundred thousand  
19 dollars or less in fees. But, what has that got to do with  
20 these defendants? He may even have tried to discourage these  
21 witnesses from testifying because he wants to wrap the case up,  
22 but I would like to know which of the defendants employed  
23 Dr. Stieldorf to do what.24 MR. FAGAN: Your Honor, Dr. Stieldorf is working  
25 together with GBK.

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1 THE COURT: Is anybody here for GBK today?

2 MS. VALLETTA: Yes, your Honor. I am.

3 THE COURT: Okay. Go ahead. He is working together  
4 with GBK.

5 MR. FAGAN: He is working together with Generali.

6 THE COURT: Generali, anybody here for that?

7 MR. FAGAN: No, your Honor.

8 THE COURT: Go ahead.

9 MR. FAGAN: He is working together with the Republic  
10 of Austria.

11 THE COURT: Anybody here for that entity today? No.

12 Go ahead.

13 MR. FAGAN: The witnesses --

14 THE COURT: And I don't know what it means 'working  
15 together.'

16 In cases in this courtroom plaintiffs and defendants  
17 work together all the time -- so called, 'work together' -- to  
18 settle cases. That doesn't mean that they are working together  
19 in some kind of a conspiracy against other people.

20 MR. FAGAN: Your Honor, but --

21 THE COURT: In many of my cases plaintiffs and  
22 defendants work well together. It is called working together.

23 MR. FAGAN: Yes, your Honor.

24 THE COURT: They sit in a room together with or  
25 without a mediator, they discuss the case, they try to settle

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1 the case. Sometimes they actually reach a settlement. That  
2 does not make them co-conspirators. That does not make them  
3 representatives of each other. That does not mean that if one  
4 of them calls their own client they violated the no contact  
5 rule.

6 Dr. Stieldorf is a plaintiff's attorney, is he not?

7 MR. FAGAN: Dr. Stieldorf.

8 THE COURT: I will hear from Mr. Bishop.

9 MR. BISHOP: Yes, your Honor.

10 I have the first and last pages of the plaintiff's  
11 complaint in the Middle District of Florida case. The first  
12 page just begins to identify the caption and the last page  
13 includes a list of the lawyers which the plaintiffs put on the  
14 court files, and the last name listed is Dr. Johannes  
15 Stieldorf.

16 THE COURT: He is a plaintiff's lawyer.

17 MR. LOWY: Your Honor, he is not.

18 THE COURT: He is a plaintiff's lawyer. Whether he  
19 has been cooperating with defendants in effort to settle is up  
20 to him. Lawyers do that all the time.

21 MR. LOWY: Your Honor, we amended the complaint on  
22 September --

23 THE COURT: That doesn't matter. At the time that the  
24 original complaint was filed he was represented to be a  
25 plaintiff's lawyer.